

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 June 2017

**Public Authority:** Ministry of Justice  
**Address:** 102 Petty France  
London  
SW1H 9AJ

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to the number of prison cells in England and Wales without integral in cell sanitation.
2. The Ministry of Justice (MoJ) failed to respond to this request for information and the Commissioner's decision is that in doing so the MoJ has breached section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The MoJ must provide the complainant with a response to this request in accordance with its obligations under the FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 7 October 2016, the complainant wrote to the MoJ and requested information in the following terms:

*"Could you please supply the following information regarding HM prisons in England and Wales.*

- 1. How many prisons in England and Wales currently have cells without integral (Plumbed in) in cell sanitation.*
  - 2. Supply a breakdown list for each individual prison indicating how many cells they currently have without in cell sanitation.*
  - 3. How may prisoners in total are currently being accommodated in prison cells without in cell sanitation. Taking into consideration cells accommodate more that one prisoner."*
6. The MoJ replied on 14 October 2016. It stated that *"I will write to you in response to your request for information by 4 November."*
  7. The complainant has chased up his request for information numerous times since 4 November 2016.
  8. At the date of this decision notice, the MoJ had yet to provide a substantive response

### **Scope of the case**

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9. The complainant contacted the Commissioner on the 2 March 2017 to complain about the way his request for information had been handled.
10. The Commissioner considers the scope of this decision notice to be the MoJ's compliance with section 10(1) of the FOIA.

### **Reasons for decision**

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11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"no later than the twentieth working day following the date of receipt"*.
12. The Commissioner wrote to the MoJ on 4 May 2017 and asked it to respond to the complainant's request within 10 working days. The MoJ responded to the Commissioner on 17 May 2017 and said it hoped to send a response to the complainant soon.
13. In this case the MoJ has breached section 10(1) by failing to respond to the request within 20 working days.

## **Other matters**

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14. As well as finding above that the MoJ is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future action against the MoJ should evidence from other cases suggest that there are systemic issues within the MoJ that are causing delays.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**